

CHAPTER 7
DECLARATORY RULINGS

193E—7.1(17A) Petition for declaratory ruling. Any person or agency may file a petition with the commission for a declaratory ruling concerning the applicability of any statute, rule, policy, decision, or order administered by the commission, at the Iowa real estate commission office. A petition is deemed filed when it is received by that office. The commission must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the commission an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

IOWA REAL ESTATE COMMISSION

Petition by (Name of Petitioner))	
)	
for a Declaratory Ruling on)	PETITION FOR
)	DECLARATORY
(Cite provisions of law)	RULING
)	
involved).)	

The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the ruling is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders whose applicability is questioned and any other relevant law.
3. The questions the petitioner wants answered, stated clearly and concisely.
4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory ruling and disclosure of the petitioner’s interest in the outcome.
6. A statement indicating whether the petitioner is currently a part of another proceeding involving the questions at issue and whether, to the petitioner’s knowledge, those questions have been decided by, are pending determination by, or are under investigation by any governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition.
8. The petition must be dated and signed by the petitioner or the petitioner’s representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner’s representative, and a statement indicating the person to whom communications concerning the petition should be directed.

193E—7.2(17A) Briefs. The petitioner may attach a brief to the petition in support of the position urged in the petition. The commission may request a brief from the petitioner or from any other person concerning the questions raised in the petition.

193E—7.3(17A) Inquiries. Inquiries concerning the status of a petition for a declaratory ruling may be made to the executive secretary at the Iowa real estate commission office.

193E—7.4(17A) Commission consideration. The commission may schedule a brief and informal meeting between the petitioner and the commission, a member of the commission, or a member of the staff of the commission to discuss the petition. The commission may request the petitioner to submit additional information or argument concerning the petition. The commission may solicit comments

from any person on the questions presented in the petition. Also, comments on those questions may be submitted to the commission by any person.

Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the commission shall, in writing, issue a ruling on the petition or refuse to do so. The commission is deemed to have issued a ruling or to have refused to do so on the date the ruling or refusal is mailed or delivered to petitioner.

193E—7.5(17A) Refusal to issue ruling. The commission may refuse to issue a declaratory ruling for good cause. Good cause includes, but is not limited to, the following reasons:

1. The petition does not substantially comply with the required form.
2. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the commission to issue a ruling.
3. The commission does not have jurisdiction over the questions presented in the petition.
4. The questions presented by the petition are also presented in current rule making, contested case, or other commission or judicial proceeding, that may definitively resolve them.
5. The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.
6. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue a ruling.
7. There is no need to issue a ruling because the questions raised in the petition have been settled due to a change in circumstances.
8. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge a commission decision already made.
9. The petition requests a declaratory ruling that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of petitioner.
10. The petitioner requests the commission to determine whether a statute is unconstitutional on its face.

7.5(1) A refusal to issue a declaratory ruling must indicate the specific grounds for the refusal and constitutes final commission action on the petition.

7.5(2) Refusal to issue a declaratory ruling pursuant to the provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the commission's refusal to issue a ruling.

193E—7.6(17A) Contents of declaratory ruling—effective date. In addition to the ruling itself, a declaratory ruling must contain the date of its issuance, the names of petitioner, the specific statutes, rules policies, decision, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion.

A declaratory ruling is effective on the date of issuance.

193E—7.7(17A) Effect of a declaratory ruling. A declaratory ruling is binding on the commission and the petitioner and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those contained in the petition. As to all other persons, a declaratory ruling serves only as precedent and is not binding on the commission. The issuance of a declaratory ruling constitutes final commission action on the petition.

These rules are intended to implement Iowa Code section 17A.9.

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